



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

(petitioner)

DECISION

MDV-40/51469

PRELIMINARY RECITALS

Pursuant to a petition filed December 5, 2001, under Wis. Stats. §49.45(5) and Wis. Adm. Code §HA 3.03(1), to review a decision by the Milwaukee County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on January 17, 2002, at Milwaukee, Wisconsin.

No issue remains for determination by the Division of Hearings and Appeals.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:
(petitioner)

Represented by:
Bruce A. Tammi, Esq.
405 East Lincoln Avenue
Milwaukee, WI 53207

State Agency:

Wisconsin Department of Health and Family Services
Division of Health Care Financing
1 West Wilson Street, Room 250
P.O. Box 309
Madison, WI 53707-0309

By: James Schroeder, ES Supervisor
Milwaukee County Dept Of Human Services
1220 W. Vliet St, 3rd Floor
Milwaukee, WI 53205

Administrative Law Judge:

David D. Fleming
Division of Hearings and Appeals

A hearing was requested on behalf of the Petitioner contesting a discontinuance of institutional MA based on a conclusion by the county agency that a divestment had occurred. Prior to the hearing the county agency indicated that it would reverse the termination of the institutional MA. This leaves no issue for determination by the Division of Hearings and Appeals. As of yet, however, the county agency has not followed through with the agreement to restore the institutional MA. It must take the administrative steps necessary to restore the institutional MA as agreed.

CONCLUSIONS OF LAW

That there is no issue for determination by the Division of Hearings and Appeals.

NOW, THEREFORE, it is

ORDERED

That the matter be remanded to the county agency with instructions to take the administrative steps necessary to restore the Petitioner's institutional MA backdated to the date of discontinuance. The county agency must take these steps within 10 days of the date of this Order.

REQUEST FOR A NEW HEARING

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875.

Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the examiner made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

Your request for a new hearing must be received no later than twenty (20) days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in § 227.49 of the state statutes. A copy of the statutes can found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed no more than thirty (30) days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

Appeals for benefits concerning Medical Assistance (MA) must be served on Department of Health and Family Services, P.O. Box 7850, Madison, WI, 53707-7850, as respondent.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for Court appeals is in § 227.53 of the statutes.

Given under my hand at the City of
Milwaukee, Wisconsin, this 4th day of
March, 2002

/sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals
2-27/DDF